



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,662	09/08/2003	Chi Lam Wong	USDP2219A-CLW	2008

7590 06/04/2004
Raymond Y. Chan
Suite 128
108 N. Ynez Ave.
Monterey Park, CA 91754

EXAMINER

PRICE, CARL D

ART UNIT PAPER NUMBER

3749

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,662

Applicant(s)

WONG, CHI LAM

Examiner

CARL D. PRICE

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/079,990.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the species of Figure 13 in the Paper filed on 01/23/2004 is acknowledged.

Applicant's statement that all claims 1-34 are "substantially claim the species, Fig. 13" is acknowledged. It is noted however that claims 1-16 include limitations not drawn to the specie elected by applicant, shown in Figure 13. The examiner disagrees however with applicant's assessment of the claims. Claims 17-20 include a "longitudinal slot" which is not shown in the specie of Figure 13.

Claims 17-20 however are currently withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie,

Applicant should note that the scope of claims 1-16 and 21-34 understood to be directed to the invention of the elected specie, shown in Figure 13. This is however only for the purpose of understanding the scope of invention for examination of the claims over the prior art. As indicated in the response filed 01-23-2004, applicant's intention is that that "claims 1-34 substantially claim the specie, Fig. 13". Applicant's attention is directed to matters related to the rejection of claims 1-34 under 35 USC 112, second paragraph, as not accurately describing of the claimed invention. See the rejection stated herein below.

Terminal Disclaimer

The terminal Disclaimer filed on 01-23-20041 has been approved.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper."

Therefore, **unless** the references have been cited by the examiner on form PTO-892, or by applicant on form PTO-1449, they have not been considered.

Priority

Applicant having not yet filed a certified copy of the **CH 01246118.0** application as required by 35 U.S.C. 119(b). Certified copies the three remaining priority documents filed in China have been received and placed in the file.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings (Figure 13) must show every feature of the invention specified in the claims. Therefore, the two "or more" nozzle ducts (see claim 1, line 27, for example) must be shown or the feature(s) canceled from the claim(s). While other non-elected embodiments present in applicant's disclosure appear to include "two *or more*" nozzles, the embodiment elected by applicant

Art Unit: 3749

(Figure 13) is not shown to have *more* than two nozzles, nor does applicant describe the possibility of such an arrangement in the written description. In addition, drawing figure 13 does not show the “two ignition *ends*” of the two nozzle ducts “*diverged and extended inside*” the ignition chamber. While the portion of the ducts within the torch head (43F) of Figure 13 diverge relative to each other, the two ignition “*ends*” extending inside the combustion chamber are oriented *parallel* to one another.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

It is noted that no new matter should be entered.

Specification

The disclosure is objected to because of the following informalities: Applicant is required to update, as necessary, all information related to co-pending patent applications listed on page 1 of the specification.

Appropriate correction is required.

Double Patenting

Claims 1-16 and 27-33 of this application conflict with claims 1-16 and 25-27 of Application No. 10/658,960. 37 CFR 1.78(b) provides that when two or more

Art Unit: 3749

applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer **cannot** overcome a double patenting rejection based upon 35 U.S.C. 101.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 27-31, the recitation including

Art Unit: 3749

the two “or more” nozzle ducts, and the “two ignition *ends*” of the two nozzle ducts “*diverged and extended inside*” the ignition chamber, cause the claim to be misdescriptive of the invention disclosed and shown (i.e. – Figure 13) by applicant.

While other non-elected embodiments present in applicant’s disclosure appear to include “two *or more*” nozzles, the embodiment elected by applicant (Figure 13) does not include *more* than two nozzles, nor does applicant describe the possibility of such an arrangement in the written description. In addition, drawing figure 13 does not show “two ignition *ends*” of the two nozzle ducts “*diverged and extended inside*” the ignition chamber.

While the portion of the ducts within the torch head (43F) of Figure 13 diverge relative to each other, the two ignition “*ends*” extending inside the combustion chamber are oriented *parallel* to one another. Also, in claim 1, line 33, there is no proper antecedent basis for “said torches”.

Allowable Subject Matter

Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 2-34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

See the attached PTI FORM 892 for prior art made of record and not relied upon which is considered pertinent to applicant's disclosure.

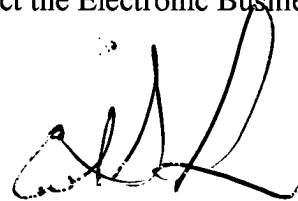
Art Unit: 3749

USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is 703-308-1953. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CARL D. PRICE
Primary Examiner
Art Unit 3749

cp